

**PATENT COOPERATION TREATY
PCT**

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 06 JUN 2005

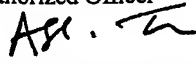
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|--|---|---|-----------------------|
| Applicant's or agent's file reference 45010 | FOR FURTHER ACTION | | See Form PCT/IPEA/416 |
| International application No. PCT/AU2004/000879 | International filing date (day/month/year) 1 July 2004 | Priority date (day/month/year) 1 July 2003 | |
| International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A01G 31/00; C09K 19/00 | | | |
| Applicant STRATUM ENVIRONMENTAL TECHNOLOGIES PTY LTD et al | | | |

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☐ (sent to the applicant and to the International Bureau) a total of sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
- This report contains indications relating to the following items:

| | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input type="checkbox"/> Box No. II | Priority |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application |

| | |
|---|--|
| Date of submission of the demand 1 February 2005 | Date of completion of the report 26 May 2005 |
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer  DR. A TESSEMA Telephone No. (02) 6283 2271 |

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000879

Box No. I Basis of the report

With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1 (b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☐ the description:

pages as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ the claims:

pages as originally filed/furnished

pages* as amended (together with any statement) under Article 19

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ the drawings:

pages as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000879

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos: 50

because:

☒ the said international application, or the said claims Nos. 50
relate to the following subject matter which does not require an international preliminary examination (*specify*):

The claim as presently drafted is directed to a method of doing business and, hence, does not comply with Article 34(4)(a)(i) and Rule 67.1(iii).

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos.
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos.
are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claim Nos.

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form ☐ has not been furnished

☐ does not comply with the standard

the computer readable form ☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. IV Lack of unity of invention

☐ In response to the invitation to restrict or pay additional fees the applicant has:

☐ restricted the claims.

☐ paid additional fees.

☐ paid additional fees under protest.

☐ neither restricted nor paid additional fees.

☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

.. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

☐ complied with.

☒ not complied with for the following reasons:

The International Searching Authority found two inventions in this international application as follows:

1. Claims 1-44 and 47-49 are directed to a turf comprising a combination of "a superstrate and grass", and a method of producing and using the turf.

2. Claims 45-46 are directed to a method of displaying advertising indicia on a surface for the playing of sport using segments of "a turf" (any turf).

4. Consequently, this report has been established in respect of the following parts of the international application:

☐ all parts.

☒ the parts relating to claims Nos. 1-49

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000879

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|-----|
| Novelty (N) | Claims | YES |
| | Claims 1-49 | NO |
| Inventive step (IS) | Claims | YES |
| | Claims 1-49 | NO |
| Industrial applicability (IA) | Claims 1-49 | YES |
| | Claims | NO |

2. Citations and explanations (Rule 70.7)

NOVELTY; INVENTIVE STEPS: Claims 1-49

D1. WO 2002/034860

The invention defined in claims 1-49 is fully disclosed by document D1 (see particularly the claims). D1 discloses an artificial surface, for the growing of turf-forming grasses and other plants, comprising a mixture of rubber, a polymer modified bitumen emulsion, aggregates, fillers and plant nutrient containing particles/crystals. Therefore, present claims 1-49 are considered not to satisfy the PCT requirements of novelty and inventive step in the light of D1.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

.. Claim 1 is not fully supported by the description in respect of "superstrate". Note that the only superstrate exemplified comprises rubber, bitumen, aggregate, filler and plant nutrient particles. Therefore, as presently drafted the term "superstrate" is indeterminate (see also page 4, lines 5-8).

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